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MAY 18 2012

DEPARTMENT OF
WATER RESOURCES

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Attorney for Flying H Farms Partnership and
Jeff C. and Jackie Harper

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

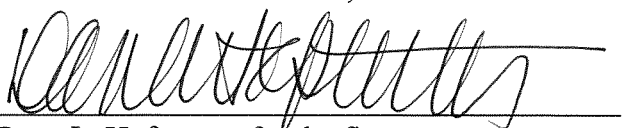
**IN THE MATTER OF THE CREATION OF
WATER DISTRICT NO. 2, SNAKE RIVER
FROM MILNER DAM TO MURPHY
GAGE BELOW SWAN FALLS DAM**

**PETITION FOR
RECONSIDERATION**

Petitioners, Flying H Farms Partnership and Jeff C. and Jackie Harper, by and through their counsel of record, Dana L. Hofstetter of Hofstetter Law Office, LLC, respectfully file this *Petition for Reconsideration* requesting reconsideration of the May 1, 2012, Preliminary Order in this matter. Petitioners respectfully request that the Department reconsider whether the establishment of the Water District is necessary at this time.

DATED this 18th day of May, 2012.

HOFSTETTER LAW OFFICE, LLC

By 

Dana L. Hofstetter, for the firm
Attorney for Flying H Farms Partnership
and Jeff C. and Jackie Harper

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of May, 2012, I caused a true copy of the foregoing **PETITION FOR RECONSIDERATION** to be served by the method(s) indicated on the following:

Original to:

Director
Idaho Department of Water Resources
The Idaho Water Center
322 East Front Street
Boise, Idaho 83702
☐ U.S. Mail ☐ Fed Ex ☒ Hand ☐ Fax

Copy to:

Jeff Peppersack
Idaho Department of Water Resources
The Idaho Water Center
322 East Front Street
Boise, Idaho 83702
☐ U.S. Mail ☐ Fed Ex ☒ Hand ☐ Fax



DANA L. HOFSTETTER

Petitions for Reconsideration filed in the Matter of Creation of Water District 02

Grindstone Butte Mutual Canal Co., MAN Farms, LLC and ATN Holdings, LLC, represented by John Marshall:

- Asks for delay of decision to create water district in light of significant burdens that it will impose upon water users. The water users in the water district will have to shoulder a substantial burden – expensive measuring devices and routine monitoring. The Department is asking water users to assume these burdens in the absence of any identified problem.
- Asks Department to thoroughly analyze data from existing river gages for at least 3 years and then determine if district is necessary. Only in the event that data from existing gages is demonstrated to be insufficient for understanding river flows and assessing whether the instream flows are being met should the Department consider creating a water district.
- Petitioners believe Department can achieve goals of protection of minimum stream flow and compliance with water rights without a water district. Department has existing tools (Landsat, etc.) to assess water user's compliance.
- Petitioners propose a delay until Department determines that it cannot properly administer the affected reach without a water district
- Alternatively, stay implementation of order pending opportunity for petitioners to provide additional comment after they review public records of Department. Petitioners request opportunity to provide further briefing after they have had opportunity to review requested public records.

Other petitioners adopting above arguments:

1. Dale Hooley – Hooley Farms
2. James D. Wolfe – Wolfe Bros. Inc.
3. Black Mesa Farms, LLC – Don J. Bryant and Wesley R. Wooten
4. Blanksma Land & Storage, LLC – Jeffrey C. Blanksma
5. Wilson & Wilson Co. – Ann T. Wilson
6. Trail Ranches, Inc. – Walter Trail
7. Gardiner I. Brown
8. Midnight Sun, Inc. – Charles W. Bryan
9. Eagle Creek NW, LLC – Charles W. Bryan
10. Rockin S Ranch – John R. Solosabal
11. DeRuyter Properties, LP – Nick J. DeRuyter
12. Clover Hollow, LLC – Jack Post and Terry Ketterling
13. South Elmore Irrigation Co., Inc. – Jack Post and Terry Ketterling
14. Jackie P. and Karla K. Post
15. Bybee Lateral Water Users Assoc. – Darrel Agenbroad
16. Little Valley Mutual Irr. Co. – Bart C. Fowers
17. Grand View Irrigation District – Mark Frost

18. Grand View Mutual Canal Co. – Randy Hipwell
19. Snake River Irrigation District – Wayne Ridley
20. Upper Grand View Canal Co. – Dixie McDaniel
21. John Terry Field
22. Gingerich Brothers Farms – Verlin, Ella and Rudy Gingerich
23. William R. and Victoria R. Wolfe
24. War Eagle Farms, LLC – Michael and Rhonda James

Flying H Farms Partnership, and Jeff C. and Jackie Harper, represented by Dana Hofstetter:

- petition asks the Department to reconsider whether the water district is necessary at this time.

\$6.54/KW

4.55¢/KWh

0.0455

\$2,653,315 2011 River State/yr

Grindstone Bottle
Fwh costs